

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3
4 Larry Hardnett,

5 Plaintiff

6 v.

7 State of Nevada, et. al.,

8 Defendants

Case No. 2:21-cv-00941-JAD-DJA

**Order Dismissing
and Closing Case**

9 Plaintiff Larry Hardnett, an inmate at the Southern Desert Correctional Center, submitted
10 an incomplete *in forma pauperis* application and an ex parte motion for appointment of counsel.¹
11 On May 19, 2021, this Court ordered the plaintiff to file a complaint and either pay the \$402
12 filing fee or file a complete *in forma pauperis* application by July 19, 2021.² That deadline
13 expired without the filing of a complaint and a new application or payment of the filing fee.

14 District courts have the inherent power to control their dockets and “[i]n the exercise of
15 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A
16 court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a
17 court order, or failure to comply with local rules.⁴ In determining whether to dismiss an action

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19 ¹ ECF Nos. 1, 1-1

² ECF No. 2.

20 ³ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

21 ⁴ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
22 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
23 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 on one of these grounds, the court must consider: (1) the public’s interest in expeditious
2 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the
3 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
4 availability of less drastic alternatives.⁵

5 The first two factors, the public’s interest in expeditiously resolving this litigation and the
6 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The
7 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
8 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
9 ordered by the court or prosecuting an action.⁶ A court’s warning to a party that its failure to
10 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of
11 alternatives” requirement,⁷ and that warning was given here.⁸ The fourth factor—the public
12 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
13 favoring dismissal.

14 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice
15 based on the plaintiff’s failure to file a complaint and an application to proceed *in forma*
16 *pauperis* or pay the filing fee as ordered. The Clerk of Court is directed to **ENTER**
17 **JUDGMENT** accordingly and **CLOSE THIS CASE**. **No other documents may be filed in**

21 ⁵ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

23 ⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁷ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

⁸ ECF No 2 at 3.

1 **this now-closed case.** If Larry Hardnett wishes to pursue his claims, he must file a complaint in
2 a new case, and he must either pay the \$402 filing fee or file a complete *in forma pauperis*
3 application in that new case.

4 Dated: July 30, 2021

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7 U.S. District Judge Jennifer A. Dorsey
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